

  
Councilmember Kathy Patterson

A PROPOSED ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To adopt legislation, on an emergency basis, enabling the District of Columbia to become a member of the Emergency Management Assistance Compact, to authorize the Mayor to enter into a compact on behalf of the District of Columbia with any state legally joining therein, and to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the Governor of the affected state or the Mayor of the District of Columbia whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That  
this resolution may be cited as the "District of Columbia Emergency Management Assistance Compact Emergency Act of 2002."

Sec. 2. Findings.

1. The terrorist attacks on September 11, 2001 in New York, Virginia, and Pennsylvania, resulting in grievous loss of life and the concomitant disruption of our national regional services, highlight the need for, and value of, intergovernmental planning and programming at the state level including the District of Columbia.

2. Mutual assistance between the states entering into this compact and the District of Columbia is also needed for the management of any emergency or disaster that is duly declared by the Governor of a state, or the Mayor of the District of Columbia, whether arising from natural disaster, technological hazard, man-made disaster, civil

1 emergency aspects of resources shortages, community disorders, insurgency, or enemy  
2 attack.

3       3.       The assistance provided by the District of Columbia to Arlington, Virginia  
4 at the Pentagon scene on September 11, 2001 and thereafter, in the form of Fire and  
5 Emergency Medical Services personnel and Metropolitan Police Department crime scene  
6 personnel, exemplified the value of inter-jurisdiction assistance during an emergency.

7       4.       There is also a need for mutual assistance between the states and the  
8 District of Columbia fostering cooperation in emergency-related exercises, testing, or  
9 other training activities using equipment and personnel simulating performance of any  
10 aspect of the giving and receiving of aid by party states or subdivisions thereof during  
11 emergencies, such as actions occurring outside actual declared emergency periods.

12       5.       The United States Congress issued the Emergency Management  
13 Assistance Compact (EMAC) Joint Resolution (Pub. L. 104-321) on October 19, 1996,  
14 authorizing states, including the District of Columbia, to join in the EMAC.

15       Sec. 3. Accordingly, the District of Columbia hereby covenants and agrees with  
16 the party states as follows:

17                               Emergency Management Assistance Compact

18   Article I

19   Purpose and Authorities

20       This compact is made and entered into by and between the participating member  
21 states that enact this compact, hereinafter called party states. For the purposes of this  
22 compact, the term "states" is taken to mean the several states, the Commonwealth of  
23 Puerto Rico, the District of Columbia, and all U. S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the Governor (Mayor) of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivision of party states during emergencies, such actions occurring outside actual declared emergency period. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

## Article II

## General Implementation

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other

1 source, that are essential to the safety, care, and welfare of the people in the event of any  
2 emergency or disaster declared by a party state, shall be the underlying principle on  
3 which all articles of this compact shall be understood.

4 On behalf of the Governor (Mayor) of each state participating in the compact, the  
5 legally designated state official who is assigned responsibility for emergency  
6 management will be responsible for formulation of the appropriate interstate mutual aid  
7 plans and procedures necessary to implement this compact.

### 8 Article III

#### 9 Party State Responsibilities

10 (a) It shall be the responsibility of each party state to formulate procedural plans  
11 and programs for interstate cooperation in the performance of the responsibilities listed in  
12 this article. In formulating such plans, and in carrying them out, the party states, insofar  
13 as practical, shall:

14 (1) Review individual state hazards analyses and, to the extent reasonably  
15 possible, determine all those potential emergencies the party states might jointly suffer,  
16 whether due to natural disaster, technological hazard, man-made disaster, emergency  
17 aspects of resources shortages, civil disorders, insurgency, or enemy attack.

18 (2) Review party states' individual emergency plans and develop a plan  
19 that will determine the mechanism for the interstate management and provision of  
20 assistance concerning any potential emergency.

21 (3) Develop interstate procedures to fill any identified gaps and to resolve  
22 any identified inconsistencies or overlaps in existing or developed plans.

1                   (4) Assist in warning communities adjacent to or crossing the state  
2 boundaries.

3                   (5) Protect and assure uninterrupted delivery of services, medicines,  
4 water, food, energy and fuel, search and rescue, and critical lifeline equipment, services,  
5 and resources, both human and material.

6                   (6) Inventory and set procedures for the interstate loan and delivery of  
7 human and material resources, together with procedures for reimbursement or  
8 forgiveness.

9                   (7) Provide, to the extent authorized by law, for temporary suspension of  
10 any statutes or ordinances that restrict the implementation of the above responsibilities.

11           (b) The authorized representative of a party state may request assistance of  
12 another party state by contacting the authorized representative of that state. The  
13 provisions of this compact shall apply only to requests for assistance made by and to  
14 authorized representatives. Requests may be verbal or in writing. If verbal, the request  
15 shall be confirmed in writing within 30 days of the verbal request. Requests shall provide  
16 the following information:

17                   (1) A description of the emergency service function for which assistance  
18 is needed, including, but not limited to, fire services, law enforcement, emergency  
19 medical, transportation, communications, public works and engineering, building  
20 inspection, planning and information assistance, mass care, resource support, health and  
21 medical services, and search and rescue.

22                   (2) The amount and type of personnel, equipment, materials and supplies  
23 needed, and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

## Article IV

## Limitations

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the Governor of the party state, or the Mayor of the District of Columbia, that is to receive assistance or upon commencement of exercises or training for mutual aid

1 and shall continue so long as the exercises or training for mutual aid are in progress, the  
2 state of emergency or disaster remains in effect, or loaned resources remain in the  
3 receiving state(s), whichever is longer.

#### 4 Article V

##### 5 Licenses and Permits

6 Whenever any person holds a license, certificate, or other permit issued by any  
7 state party to the compact evidencing the meeting of qualifications for professional,  
8 mechanical, or other skills, and when such assistance is requested by the receiving party  
9 state, such person shall be deemed licensed, certified, or permitted by the state requesting  
10 assistance to render aid involving such skill to meet a declared emergency or disaster,  
11 subject to such limitations and conditions as the Governor of the requesting state, or  
12 Mayor of the District of Columbia, may prescribe by executive order or otherwise.

#### 13 Article VI

##### 14 Liability

15 Officers or employees of a party state rendering aid in another state pursuant to  
16 this compact shall be considered agents of the requesting state for tort liability and  
17 immunity purposes. No party state or its officers or employees rendering aid in another  
18 state pursuant to this compact shall be liable on account of any act or omission in good  
19 faith on the part of such forces while so engaged or on account of the maintenance or use  
20 of any equipment or supplies in connection therewith. Good faith in this article shall not  
21 include willful misconduct, gross negligence, or recklessness.

#### 22 Article VII

##### 23 Supplementary Agreements

1       Inasmuch as it is probable that the pattern and detail of the machinery for mutual  
2 aid among two or more states may differ from that among the states that are party hereto,  
3 this compact contains elements of a broad base common to all states, and nothing herein  
4 contained shall preclude any state from entering into supplementary agreements with  
5 another state or affect any other agreements already in force between states.  
6 Supplementary agreements may comprehend, but shall not be limited to, provisions for  
7 evacuation and reception of injured and other persons and the exchange of medical, fire,  
8 police, public utility, reconnaissance, welfare, transportation and communications  
9 personnel, and equipment and supplies.

#### 10                               Article VIII

#### 11                               Compensation

12       Each party shall provide for the payment of compensation and death benefits to  
13 injured members of the emergency forces of that state and representatives of deceased  
14 members of such forces in case such members sustain injuries or are killed while  
15 rendering aid pursuant to this compact, in the same manner and on the same terms as if  
16 the injury or dearth were sustained within their own state.

#### 17                               Article IX

#### 18                               Reimbursement

19       Any party state rendering aid in another state pursuant to this compact shall be  
20 reimbursed by the party state receiving such aid for any loss or damage to or expense  
21 incurred in the operation of any equipment and the provisions of any service in answering  
22 a request for aid and for the costs incurred in connection with such requests; provided,  
23 that any aiding party state may assume in whole or in part such loss, damage, expense, or



1 other cost, or may loan such equipment or donate such services to the receiving party  
2 state without charge or cost; and provided further, that any two or more party states may  
3 enter into supplementary agreements establishing a different allocation of costs among  
4 those states. Article VII expenses shall not be reimbursable under this article.

## 5 Article X

### 6 Evacuation

7 Plans for the orderly evacuation and interstate reception of portions of the civilian  
8 population as the result of any emergency or disaster of sufficient proportions to so  
9 warrant, shall be worked out and maintained between the party states and the emergency  
10 management/services directors of the various jurisdictions where any type of incident  
11 requiring evacuations might occur. Such plans shall be put into effect by request of the  
12 state from which evacuees come and shall include the manner of transporting such  
13 evacuees, the number of evacuees to be received in different areas, the manner in which  
14 food, clothing, housing, and medical care will be provided, the registration of evacuees,  
15 the providing of facilities for the notification of relatives or friends, and the forwarding of  
16 such evacuees to other areas or the bringing in of additional materials, supplies, and all  
17 other relevant factors. Such plans shall provide that the party state receiving evacuees  
18 and the party state from which the evacuees come shall mutually agree as to  
19 reimbursement of out-of-pocket expenses incurred in receiving and caring for such  
20 evacuees, for expenditures for transportation, food, clothing, medicines and medical care,  
21 and the like items. Such expenditures shall be reimbursed as agreed by the party state  
22 from which the evacuees come. After the termination of the emergency or disaster, the

1 party state from which the evacuees come shall assume the responsibility for the ultimate  
2 support of repatriation of such evacuees.

### 3 Article XI

#### 4 Implementation

5 (a) This compact shall become effective with respect to the District of Columbia  
6 immediately upon its enactment into law.

7 (b) Any party state may withdraw from this compact by enacting a statute  
8 repealing the same, but such withdrawal shall not take effect until 30 days after the  
9 Governor of the withdrawing state, or the Mayor of the District of Columbia, has given  
10 notice in writing of such withdrawal to the Governors of all other party states (or to the  
11 Mayor of the District of Columbia). Such action shall not relieve the withdrawing state  
12 from obligations assumed hereunder prior to the effective date of withdrawal.

13 (c) Duly authenticated copies of this compact and of such supplementary  
14 agreements as may be entered into shall, at the time of their approval, be deposited with  
15 each party state and with the Federal Emergency Management Agency and other  
16 appropriate agencies of the United States Government.

### 17 Article XII

#### 18 Validity

19 This compact shall be construed to effectuate the purposes stated in Article I hereof. If  
20 any provisions of this compact is declared unconstitutional, or the applicability thereof to  
21 any person or circumstances is held invalid, the constitutionality of the remainder of this  
22 compact and the applicability thereof to other persons and circumstances shall not be  
23 affected thereby.

1 Article XIII

2 Additional Provisions

3 Nothing in this compact shall authorize or permit the use of military force by the  
4 National Guard of a state at any place outside that state in any emergency for which the  
5 President is authorized by law to call into federal service the militia, or for any purpose  
6 for which the use of the Army or the Air Force would in the absence of express statutory  
7 authorization be prohibited under § 1385 of Title 18 of the United States Code.

8 Article XIV

9 District of Columbia Provisions

10 (a) Absent congressional authority to the contrary, with respect to the District of  
11 Columbia, no provision of this contract shall supercede the requirements of 31 U.S.C. §  
12 1341 (a) (1) (A) or of § 446 of the District of Columbia Home Rule Act.

13 (b) The District of Columbia may purchase liability insurance to ensure against  
14 debts and obligations that may be incurred as a result of its participation in  
15 any mutual aid agreement authorized by, and entered into, pursuant to this act.

16 Sec. 4. Fiscal impact statement.

17 The Council adopts the attached fiscal impact statement as the fiscal  
18 impact statement required by section 602(c)(3) of the Home Rule Act, approved  
19 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

20 Sec. 5. Effective date.

21 This act shall take effect following approval by the Mayor (or in the event  
22 of veto by the Mayor, action by the Council to override the veto), and shall  
23 remain in effect for no longer than 90 days, as provided for emergency acts of the

1 Council of the District of Columbia in section 412(a) of the District of Columbia  
2 Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code §  
3 1-204.12(a)).